

**PROVISIONAL BALLOT AMENDMENTS FOR
UNREGISTERED VOTERS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Neil A. Hansen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Election Code to require a county clerk to count a provisional ballot of an unregistered voter under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "legally entitled to vote" to include a voter who is eligible to be registered to vote in the state;
- ▶ requires a county clerk to count a provisional ballot of a person who is not registered to vote but who is eligible to register to vote in this state; and
- ▶ make technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-4-107, as last amended by Laws of Utah 2007, Chapters 75 and 285

Be it enacted by the Legislature of the state of Utah:



Section 1. Section **20A-4-107** is amended to read:

20A-4-107. Review and disposition of provisional ballot envelopes.

(1) As used in this section, a voter is "legally entitled to vote" if:

(a) the voter:

(i) is registered to vote in the state or is eligible to be registered to vote in the state;

(ii) resides within the voting precinct where the voter seeks to vote; and

(iii) provided valid voter identification to the poll worker as indicated by a notation in the official register;

(b) the voter:

(i) is registered to vote in the state or is eligible to be registered to vote in the state; and

(ii) did not vote in the voter's precinct of residence, but the ballot that the voter voted is identical to the ballot voted in the voter's precinct of residence; or

(c) the voter:

(i) is registered to vote in the state or is eligible to be registered to vote in the state;

(ii) the poll worker recorded in the official register that the voter either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate; and

(iii) the county clerk verifies the voter's identity and residence through some other means.

(2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is ~~[a registered voter and]~~ legally entitled to vote the ballot that the voter voted.

(b) If the election officer determines that the person ~~[is not a registered voter or]~~ is not legally entitled to vote the ballot that the voter voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person ~~[is a registered voter and]~~ is legally entitled to vote the ballot that the voter voted, the election officer shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

59 (d) The election officer may not count, or allow to be counted a provisional ballot
60 unless the voter's identity and residence is established by a preponderance of the evidence.

61 (3) If the election officer determines that the person is a registered voter, the election
62 officer shall ensure that the voter registration records are updated to reflect the information
63 provided on the provisional ballot envelope.

64 (4) If the election officer determines that the person is not a registered voter and the
65 information on the provisional ballot envelope is complete, the election officer shall:

66 (a) consider the provisional ballot envelope a voter registration form; and

67 (b) register the voter.

Legislative Review Note
as of 2-4-09 3:07 PM

Office of Legislative Research and General Counsel

H.B. 196 - Provisional Ballot Amendments for Unregistered Voters

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses; however some county governments without adequate election process infrastructure could be affected.
